

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN GARRETT SMITH,

Plaintiff,

v.

SANDRA ALDRIDGE,

Defendant.

HERNANDEZ, District Judge.

Case No. 3:17-cv-01998-HZ

ORDER TO DISMISS

Plaintiff filed this civil action on December 14, 2017, asking for mandamus relief pertaining to his criminal judgment in the State of Washington. This is not the first time Plaintiff has sought relief in this District from his allegedly void judgment and unlawful incarceration in Washington. Judge Simon previously addressed six such challenges and determined them to

be frivolous and malicious.¹ Judge Simon noted that declaratory and injunctive relief are not appropriate in the non-habeas civil context, and further provided that the dismissal of Plaintiff's cases did not prevent him from filing a habeas corpus challenge once he had exhausted his state-court remedies.

In the case at bar, Plaintiff once again asserts that his Washington judgment is void, and that his incarceration is unlawful such that immediate injunctive relief is appropriate. As Judge Simon previously determined, Plaintiff can only challenge the validity of a state-court judgment by way of a habeas corpus case. *Ramirez v. Galaza*, 334 F.3d 850, 859 (9th Cir. 2003) ("[H]abeas jurisdiction is proper where a challenge to prison conditions would, if successful, necessarily accelerate the prisoner's release"). Accordingly, the Court summarily dismisses this case as repetitive, for failure to state a claim, and as frivolous. *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (courts have authority to dismiss claims *sua sponte*). Plaintiff is once again advised that the appropriate federal remedy to challenge an allegedly unlawful conviction is through a habeas corpus case in the

¹ See *Smith v. Lewis*, 3:17-cv-01017-SI; *Smith v. Collier*, 3:17-cv-01118-SI; *Smith v. Wash. Dept. of Corr.*, 3:17-cv-01130-SI; *Smith v. Clark*, 3:17-cv-


district in which he was convicted or the district in which he is confined. See 28 U.S.C. § 2241(d).

CONCLUSION

Plaintiff's Complaint (#2) is summarily dismissed, without leave to amend. Plaintiff's pending Motions (#4, #6, #8, #9 & #13) are denied. This Court certifies that any appeal from this order would not be taken in good faith. See 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3)(A).

IT IS SO ORDERED.

DATED this 3/2/18 day of ~~March, 2018.~~



Marco A. Hernandez
United States District Judge